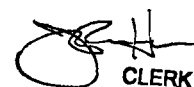


UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

FILED

JUL 23 2012


CLERK

BLACK HILLS MOLDING, INC.,)	CIV. <u>12-5051</u>
)	
Plaintiff,)	
)	NOTICE OF REMOVAL
v.)	
)	
BRANDOM HOLDINGS, LLC,)	
)	
Defendant.)	

Defendant Brandom Holdings, LLC ("**Brandom**"), through Jennifer Trucano of Gunderson, Palmer, Nelson & Ashmore, LLP, hereby files this Notice of Removal pursuant to 28 USC §§ 1332 and 1446, and as grounds therefore would show the following:

I. TIMELINESS OF REMOVAL

1. On or about June 21, 2012, Plaintiff Black Hills Molding, Inc. served a copy of an unfilled Complaint entitled *Black Hills Molding, Inc. v. Brandom Holdings, LLC*, in the Seventh Judicial Circuit Court of Pennington County, South Dakota (the "**State Court Action**").

2. The day the summons was served on Brandom was Brandom's first knowledge of the State Court Action.

3. Subsequently, the Complaint was filed as *Black Hills Molding, Inc. v. Brandom Holdings, LLC*, Cause No. Civ. No. 12-1320 in the Seventh Judicial Circuit Court of Pennington County, South Dakota.

4. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is timely filed within thirty days after the receipt by Brandom of the copy of the initial pleading setting forth the claim for relief upon which such action is based.

5. A true and correct copy of the summons, including the Complaint served therewith in the State Court Action is attached hereto as Exhibit A.

II. THE PARTIES

6. Plaintiff is a citizen of the State of South Dakota. Exhibit A, Plaintiff's Complaint, at ¶ 1.

7. Defendant, Bandom is a Texas corporation with its principal place of business in Texas and, for purposes of diversity, is a citizen of the State of Texas. *See also* Exhibit A, Plaintiff's Complaint, at ¶ 2.

III. BASIS FOR REMOVAL - DIVERSITY JURISDICTION

A. Diversity

8. The State Court Action constitutes a removable "civil action" under 28 U.S.C. § 1441(a). Complete diversity exists between Plaintiff and Defendant. *See* Part II, *supra*. Complete diversity existed at the time of the incidents alleged in the State Court Action, at the time of the commencement of the State Court Action, at the time of removal, and complete diversity still exists. The case involves alleged claims of breach of contract.

B. Amount in Controversy

9. Plaintiff is seeking damages in excess of \$75,000.00 from Defendant. *See* Exhibit A, Plaintiff's Complaint, at ¶ 32; *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 292 (1938).

IV. NOTICE

10. Pursuant to 28 U.S.C. § 1446(d), prompt written notice of the filing of this Notice of Removal is being given to all adverse parties, and a true and correct copy of the Notice of

Removal is being filed with the Seventh Judicial Circuit Court of Pennington County, South Dakota.

V. STATE COURT PLEADINGS

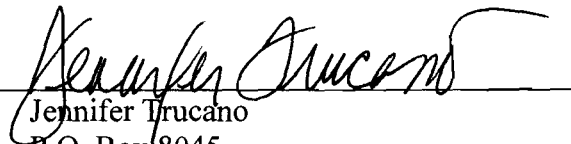
11. Pursuant to 28 U.S.C. § 1446(a) copies of all process, pleadings, and orders received by Defendant in the State Court are attached hereto.

WHEREFORE, Defendant Brandom prays that the State Court Action be removed from the Seventh Judicial Circuit Court of Pennington County, South Dakota, to the United States District Court for the District of South Dakota, Rapid City Division, in accordance with the provisions of 28 U.S.C. § 1441, and for such other and further relief at law or in equity to which it may justly be entitled.

Dated this 23rd day of July 2012.

GUNDERSON, PALMER, NELSON
& ASHMORE, LLP

By



Jennifer Trucano

P.O. Box 8045

Rapid City, SD 57709-8045

(605) 342-1078

jtrucano@gpnalaw.com


CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of July 2012, I hand-delivered a true and correct copy of the Notice of Removal to:

Gregory J. Sperlich
DeMersseman Jensen Tellinghuisen
& Huffman, LLP
PO Box 1820
Rapid City, SD 57709

Pennington County Clerk
PO Box 230
Rapid City, SD 57709

GUNDERSON, PALMER, NELSON
& ASHMORE, LLP

By 
Jennifer Trucano